

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 04-6079**

---

GARY WILLIAMS,

Petitioner - Appellant,

versus

WARDEN, Wallens Ridge State Prison,

Respondent - Appellee.

---

**No. 05-6270**

---

GARY WILLIAMS,

Petitioner - Appellant,

versus

WARDEN, Wallens Ridge State Prison,

Respondent - Appellee.

---

Appeals from the United States District Court for the Western  
District of Virginia, at Roanoke. Jackson L. Kiser, Senior  
District Judge. (CA-03-448-7)

---

Submitted: May 20, 2005

Decided: June 15, 2005

---

Before WILLIAMS, GREGORY, and DUNCAN, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Gary Williams, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Gary Williams seeks to appeal two orders concerning his 28 U.S.C. § 2254 (2000) petition. In No. 04-6079, Williams challenges the district court's order denying relief on his § 2254 petition. In No. 05-6270, Williams seeks to appeal the district court's order accepting the recommendation of the magistrate judge and finding that Williams failed to demonstrate excusable neglect for filing his notice of appeal in No. 04-6079 outside the thirty-day appeal period of Fed. R. App. P. 4(a).

In recommending that the district court find no excusable neglect in No. 04-6079, the magistrate judge advised Williams that failure to file timely objections could waive appellate review of a district court order based upon the recommendation. Despite this warning, Williams failed to object to the magistrate judge's recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Williams has waived appellate review in No. 05-6270 by failing to file objections after receiving proper notice. We therefore deny a certificate of appealability and dismiss the appeal in No. 05-6270 on the ground that Williams

waived appellate review of the district court's order adopting the magistrate judge's recommendation and finding no excusable neglect for Williams' failure to file a timely notice of appeal in No. 04-6079.

Because the district court found no excusable neglect and hence did not extend the period for Williams to file a notice of appeal in No. 04-6079, we find that his notice of appeal, filed beyond the thirty-day appeal period of Fed. R. App. P. 4(a), was untimely filed. Accordingly, we deny a certificate of appealability and dismiss No. 04-6079 as untimely filed. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED